IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.231 OF 2006

Baliram Mariba Kamble & Anr. ...Appellants
vs.
Ananda Jagu Kamble & Ors. ...Respondents

Mr.B.K.Raje for the Appellants

CORAM: A.S.OKA, J.
DATED: MARCH 22, 2006.

P.C.:

1. Heard Shri Raje for the Appellants. The Appellant No.1 is the original Plaintiff No.1. In a suit for partition filed by the original Plaintiffs, the Trial Court passed a decree for partition and separate possession. The said decree has been interfered with by the Appellate Court. Shri Raje for the Appellants submitted that the finding recorded by the Appellate Court is that there was no partition by metes and bounds. He submitted that without giving notice to the Plaintiff the original defendants have managed to mutate their names in the record of the rights. He therefore submitted that the Appellate Court ought not to have interfered with the finding recorded by the Trial court.

2. I have considered the submissions. The finding of the Appellate Court is that the Consolidation scheme under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 was made applicable to the concerned

village and the entries made in the consolidation record are against the Appellants. A finding of fact has been recorded that the certificate under Section 24 of the said Act of 1947 has been issued in the name of the defendant Nos.1 to 3. The said certificate is a document of title. As no proceeding has been taken by the Appellants under the provisions of the said Act of 1947 to challenge the consolidation proceedings, the Appellate Court came to the conclusion that a decree which contrary to the entries made in the Consolidation scheme cannot be passed.

3. In my view, there is no error in the view taken by the Appellate Court. There is no merit in the Appeal and the same is dismissed with no order as to costs.

Judge.